



The Board agrees with and adopts as its own the findings and conclusions stated by the ALJ in his Award. The parties agree that claimant suffered accidental injury arising out of and in the course of her employment with respondent. The issue concerns the permanency of the injury and whether any resulting disability is ratable as a functional impairment under the fourth edition of the AMA Guides to the Evaluation of Permanent Impairment as required by K.S.A. 1999 Supp. 44-510e(a). Claimant contends that Dr. Eyster's 0 percent rating is not credible, in light of the claimant's pain complaints, and that Dr. Mills' failure to assign a permanent functional impairment rating is inconsistent with his diagnosis, in particular the diagnosis of rotator cuff tendinitis. Claimant presents in contravention, the 24 percent rating by Dr. Murati and argues that, at a minimum, claimant is entitled to a split of the ratings or a 5 percent permanent partial disability award for her pain. Work disability is not an issue.

The Board, for the reasons stated in the Award, affirms the finding of no permanent disability.

#### **AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Jon L. Frobish dated December 27, 1999, should be, and is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of May 2000.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: James B. Zongker, Wichita, KS  
Edward D. Heath, Jr., Wichita, KS  
Jon L. Frobish, Administrative Law Judge  
Philip S. Harness, Director